

SUPPORT FOR THE AMENDMENT

This Amendment cancels Claims 9 and 13-14; and amends Claim 1 and 11. No new matter would be introduced by entry of these amendments.

Upon entry of these amendments, Claims 1-2, 8, 10-11 and 15-16 will be pending in this application. Claim 1 is independent.

REQUEST FOR RECONSIDERATION

Applicants respectfully request entry of the foregoing and reexamination and reconsideration of the application, as amended, in light of the remarks that follow.

The present invention relates to an endotracheal tube that (i) is not composed of a plasticized-polyvinyl chloride that can generate a harmful dioxin when burned, (ii) and is excellent in kink resistance, slidability and prevention of sticking and (iii) has excellent transparency. The endotracheal tube is obtained by subjecting a resin composition comprising a specific styrenic elastomer and a polyolefin to extrusion molding.

Claims 1, 8 and 15 are rejected under 35 U.S.C. § 102(e) over U.S. Patent No. 6,184,291 ("Ahmed"). In addition, Claims 2 and 10-11 are rejected under 35 U.S.C. § 103(a) over Ahmed in view of U.S. Patent No. 4,552,914 ("Sterling").

Ahmed discloses a thermoplastic elastomeric composition comprising (a) from about 50 to about 99 percent by weight of at least one block copolymer and (b) about 1 to about 50 percent by weight of at least one ethylene interpolymer. Ahmed at Abstract. Ahmed discloses that

The term "interpolymer" is used herein to indicate a copolymer, or a terpolymer, or the like, where, at least one other comonomer is polymerized with ethylene to make the interpolymer. Ahmed at column 4, lines 46-49.

Ahmed discloses that Ahmed's composition can be further combined with "other natural or synthetic resins", such as polypropylene, to improve properties. Ahmed at column 16, lines 31-39.

The Final Rejection asserts that

In regard to claim 1, Ahmed et al. teach ... medical tubing ... obtained by subjecting a resin composition comprising a hydrogenated styrene-isoprene-styrene block copolymer ... and a **polypropylene** that is represented by the name "**TAFMER P0480**" (col. 17, lines 13-16, col. 22, lines 43-54 and Example 18 in Table 4 at lines 1-24 of col. 23) to extrusion molding Final Rejection at section 11, lines 1-9 (emphasis added).

However, Ahmed discloses at column 17, lines 13-16, that **TAFMER P0480** is "a thermoplastic homogeneously branched linear **ethylene/propylene copolymer**". A copolymer, such as ethylene/propylene copolymer, is not a homopolymer, such as polypropylene.

Ahmed fails to suggest the independent Claim 1 limitations of "an endotracheal tube comprising ... a resin composition comprising a hydrogenated styrene-isoprene-styrene block copolymer... and polypropylene as a polyolefin..., wherein the weight ratio of the polypropylene to the hydrogenated styrene-isoprene-styrene block copolymer... is 20/80 to 40/60". A resin composition comprising this specific mixing ratio results in an endotracheal tube having excellent transparency and kink resistance. See, specification at page 12, lines 10-15. In contrast, if Ahmed's TAFMER P0480 ethylene/propylene copolymer is used in place of polypropylene, an endotracheal tube with excellent transparency cannot be obtained. See attached Declaration Under 37 C.F.R. § 1.132.

Sterling fails to remedy the deficiencies of Ahmed. Sterling discloses a blend comprising **styrene-ethylene-butylene-styrene** block copolymer and polypropylene.

Sterling at Abstract. However, Sterling fails to suggest the independent Claim 1 limitation of a "hydrogenated **styrene-isoprene-styrene** block copolymer". Furthermore, Sterling fails to

suggest the independent Claim 1 limitation that "the weight ratio of the polypropylene to the hydrogenated styrene-isoprene-styrene block copolymer (polypropylene/hydrogenated styrene-isoprene-styrene block copolymer) is 20/80 to 40/60", which results in an endotracheal tube with excellent transparency. See the attached Declaration Under 37 C.F.R. § 1.132 discussed above.

Any *prima facie* case of obviousness based on the cited prior art is rebutted by the significant improvement in transparency achieved by the present invention using "a resin composition comprising a hydrogenated styrene-isoprene-styrene block copolymer ... and polypropylene" where "the weight ratio of the polypropylene to the hydrogenated styrene-isoprene-styrene block copolymer ... is 20/80 to 40/60" relative to the transparency of the elastomeric composition of Ahmed. Ahmed fails to suggest an elastomeric composition containing polypropylene in the recited amounts.

Because Ahmed and Sterling fail to suggest all the limitations of independent Claim 1, and any *prima facie* case of obviousness is rebutted, the prior art rejections over Ahmed and Sterling should be withdrawn.

Claim 9 is rejected under 35 U.S.C. § 103(a) over Ahmed in view of U.S. Patent No. 5,189,110 ("Ikematu"). In addition, Claims 13-14 are rejected under 35 U.S.C. § 103(a) over Ahmed in view of JP 10-067894 ("Ishii"). Claims 9 and 13-14 are canceled, so the rejections are moot and should be withdrawn.

Pursuant to M.P.E.P. 821.04, after independent product Claim 1 is allowed, Applicants respectfully request rejoinder, examination and allowance of method Claim 16, which includes all of the limitations of independent product Claim 1.

In view of the foregoing amendments and remarks, Applicants respectfully submit that the application is in condition for allowance. Applicants respectfully request favorable consideration and prompt allowance of the application.

Should the Examiner believe that anything further is necessary in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon



Corwin P. Umbach, Ph.D.
Registration No. 40,211

Attachment: Declaration Under 37 C.F.R. § 1.132

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413-2220
(OSMMN 08/03)